IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2295 OF 2006

Amar Chandraprakash
@ Chandu Sharma ..... Petitioner.

V/s

The State of Maharashtra & Ors. ....Respondents.

Mr. S.C. Halli for the Petitioner.

Mrs. M.M. Deshmukh, APP for the State.

CORAM: V.M. KANADE, J.
DATE : 30th October, 2007

P.C.:

1. Heard the learned Counsel appearing on behalf of the petitioner and the learned APP for the State.

2. By this Petition, petitioner is challenging the order of externment passed by the respondents under section 56(1)(a)(b) of the Bombay Police Act, 1951, directing the petitioner to remove himself for a period of two years from the limits of Mumbai, Mumbai suburban District and Thane District and not to enter these three Districts without

permission in writing from the Commissioner of Police.

3. The learned Counsel appearing on behalf of the petitioner submits that there is complete non-application of mind on the part of the Commissioner in passing the impugned order. It is submitted that the Commissioner has relied on in-camera statements of the witnesses in the said locality. He submitted that the show-cause notice was based on vague allegations and that itself was illegal. He submitted that no details regarding the date, time and place of incident were narrated by the witnesses when their in-camera statements were recorded and, therefore, the petitioner was deprived of meeting the allegations made by these witnesses. It is further submitted that the order of externment was illegal since no reasons were given why the petitioner should be externed from the Thane District, Greater Mumbai and Mumbai Suburban District when the illegal activities alleged to have been committed by the petitioner were confined to Gowandi area in Mumbai.

4. The submissions made by the learned Counsel appearing on behalf of the Petitioner cannot be accepted. I have perused the show-cause notice. The show-cause notice gives details of the statements made by Witness ‘A’. It is stated that the petitioner used to carry lethal weapons like chopper and knife and used to collect money forcibly from the shopkeepers, hawkers as well as businessmen from the

areas of Shastri Nagar, Sanjay Nagar, Road No. 10, 11, 12, 13, Baiganwadi, Mumbai. It is also stated that the Petitioner was in the habit of eve teasing and using force against young women and girls passing on the road. The witness stated that he sells his goods on his handcart from 08.00 a.m. to 09.00 p.m. He has stated that in the second week of April, 2005, at about 08.30 p.m.. he saw the petitioner and two other persons accosted him and demanded Rs 200/- from him and when he was unable to pay that amount, the petitioner took out a knife and and kicked the handcart and, thereafter, forcibly took out Rs 300/- from his pocket. Witness 'B' also has given details regarding date, time and incident. Witness 'C' also has stated that she is a widow and lives with her family at the given address since last eight years. She has also stated that the Petitioner is in the habit of eve teasing and molesting young women and girls. She has given details as to how she was molested. Witness 'D" has also given details about the various illegal activities of the petitioner. Further, it is mentioned in the complaint that three cases are pending against him where allegations are made that the petitioner has committed offence punishable under section 324, 326 read with section 34 of the Indian Penal Code. The Commissioner has taken into consideration all these instances and, thereafter, passed the impugned order.

5. In my view, there is no delay in passing the order of externment. The show cause notice was issued on

23/08/2005 and the order is passed on 01/03/2006. The show cause notice mentions that since April 2005, Petitioner has committed several illegal acts. The order mentions that sufficient and reasonable opportunity was given to the petitioner to defend himself. It is obvious that after the show-cause notice was issued, the petitioner had taken time to defend himself and, thereafter, the order was passed on 01/03/2006. Hence, no case is made out for interference with the aforesaid order of externment. The order passed by the Externment Authority is confirmed by the Appellate Authority viz. Home Ministry, Government of Maharashtra.

6. Writ Petition is accordingly dismissed.

(V.M. KANADE, J.)